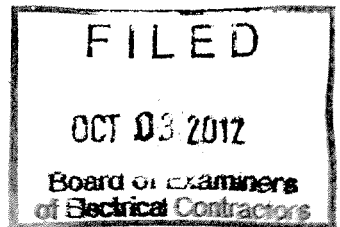


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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF EXAMINERS OF ELECTRICAL CONTRACTORS

IN THE MATTER OF

DARRYL GAYTON
t/a AMPERE ELECTRIC
License and Business Permit #11140

TO PRACTICE ELECTRICAL
CONTRACTING IN THE STATE OF
NEW JERSEY

Administrative Action

FINAL ORDER
OF DISCIPLINE

This matter was opened to the New Jersey State Board of Examiners of Electrical Contractors ("the Board") upon receipt of information which the Board has reviewed, and on which the following findings of fact and conclusions of law are made;

FINDINGS OF FACT

1. Darryl Gayton ("respondent") is a licensed electrical contractor in the State of New Jersey, and has been a licensee at all times relevant hereto. Respondent has been issued business permit #11140 under the name "Ampere Electric" and has been engaging in the practice of electrical contracting under that business permit at all times relevant hereto.

2. The Board received a complaint from consumer T.U. stating that he signed a contract with respondent to complete a electrical installation and bring electrical service to T.U.'s building. T.U. gave respondent a \$1,000.00 deposit. T.U. explained to respondent that timely completion of the job was important because there was a threat of vandalism to the property.

3. According to the complaint, T.U. waited three weeks for respondent to begin the

work. After the three week period, T.U. sent respondent two registered letters, but respondent failed to respond. Two months later, T.U. requested that respondent return the \$1,000.00 deposit and the blue prints to the building. However, T.U. failed to comply. T.U. had to hire another electrical contractor to do the work.

4. Respondent filed a small claims complaint against respondent. As a result, a judgement was entered against respondent in the amount of \$939.00.

5. The Board sent a letter to respondent, dated February 25, 2010, via regular mail. The letter was sent to respondent's address of record. In the letter, the Board requested that respondent provide a written reply to the complaint filed by T.U. The letter instructed respondent to provide the response within seven (7) days of his receipt of the letter. The letter also afforded respondent the opportunity to pay the \$939.00 owed to T.U. Respondent failed to provide the requested response to the complaint and did not pay the money owed to T.U.

6. The Board sent respondent a second letter, dated June 7, 2010, via certified mail, to respondent's address of record. The letter again directed respondent to provide a response to the complaint filed by T.U. The letter also advised respondent of his duty to cooperate, pursuant to N.J.A.C. 13:45C-1.2. The letter instructed respondent to provide the response within ten (10) days of his receipt of the letter. The certified mail was returned indicating "Return to Sender Unclaimed". To date, respondent has failed to provide the requested response to the complaint and has not paid the money owed to T.U.

CONCLUSIONS OF LAW

1. The above preliminary findings of fact provide grounds for disciplinary action against respondent's license, pursuant to N.J.S.A. 45:1-21(e), in that respondent has engaged in professional and occupational misconduct by failing to cooperate with the Board and provide requested information in violation of N.J.A.C. 13:45C-1.2.

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline was

entered on June 1, 2011. The Provisional Order imposed a \$1,000.00 civil penalty for engaging in professional and occupational misconduct by failing to reply to the Board's request for a response to the complaint from T.U., in violation of N.J.A.C. 13:45C-1.2, and suspended respondent's license and business permit until such time as he provides a written response to the complaint from T.U. and can demonstrate to the satisfaction of the Board that he has paid T.U. the amount of \$939.00 assessed in the order from the court.

The Provisional Order was forwarded to respondent's last known address on file with the Board by certified and regular mail. The Provisional Order was subject to finalization by the Board at 5:00 P.M. on the 30th business day following entry unless respondent requested a modification or dismissal of the stated Finding of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should not be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefore.

On June 20, 2011, respondent appeared at the Board office, spoke to Board staff, and sought to provide a verbal response to the Provisional Order. The Board staff advised respondent that the Provisional Order requires that he provide a written response.

On December 7, 2011, the Board was advised that respondent appeared at the Board office and sought to provide a verbal response to the Provisional Order, but was instructed to provide a written response. The Board was also informed that respondent, to date, has failed to provide a written response to the Provisional Order. The Board voted to send respondent a letter indicating that he has ten days to provide a response to the Provisional Order. Failure to provide a written response within ten days will result in the Provisional Order being finalized as written.

The Board sent respondent a letter, to his address of record, dated June 12, 2012. The letter informed respondent that he had ten days to provide a response to the Provisional Order. Failure to provide a response would result in the Provisional Order being finalized as written. The

letter was sent to respondent's address of record. Respondent failed to provide a written response to the Provisional Order.

On September 5, 2012, the Board was advised that respondent was served with the June 12, 2012 letter, but failed to provide a response to the Provisional Order. Because the Provisional Order, as well as the June 12, 2012 letter, was forwarded to respondent's address of record, the Board deems service to have been effected. Accordingly, it was determined that further proceedings were not necessary and that the Provisional Order should be made final.

ACCORDINGLY, IT IS on this 3 day of OCT, 2012,
ORDERED that:

1. Respondent's license and business permit to practice as an electrical contractor in the State of New Jersey are hereby suspended until such time as respondent provides a written response to the complaint from T.U. and can demonstrate to the satisfaction of the Board that he has paid T.U. the amount of \$939.00 assessed in the order from the court.

2. Respondent is assessed a civil penalty, pursuant to N.J.S.A. 45:1-22, in the amount of \$1,000.00, in that he has failed to provide the Board with a response to the complaint from T.U., in violation of N.J.A.C. 13:45C-1.2. The \$1,000.00 civil penalty shall be submitted by certified check or money order made payable to the State of New Jersey and shall be sent to the Executive Director, Board of Examiners of Electrical Contractors, 124 Halsey Street, Sixth Floor, Newark, New Jersey 07101, no later than thirty (30) days after entry of any Final Order in this matter. In the event respondent fails to make a timely payment, a certificate of debt shall be filed.

3. Nothing in this order precludes the Board from taking disciplinary action regarding the underlying assertions outlined in the complaint from T.U.

BOARD OF EXAMINERS OF ELECTRICAL CONTRACTORS

By: 

Joseph P. Schooley
Board Chairman